

**SIXTY-FIRST DAY - APRIL 13, 2005****LEGISLATIVE JOURNAL****NINETY-NINTH LEGISLATURE  
FIRST SESSION****SIXTY-FIRST DAY**

Legislative Chamber, Lincoln, Nebraska  
Wednesday, April 13, 2005

**PRAYER**

The prayer was offered by Pastor Lloyd Gnirk, St. Pius X Church, Omaha.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 9:00 a.m., Senator Cudaback presiding.

The roll was called and all members were present except Senators Landis and Dw. Pedersen who were excused; and Senators Cunningham, Heidemann, Loudon, Mines, Price, and Stuhr who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

Page 1154, line 10, strike "Senator Flood" and insert "Senators Flood and Beutler".

Page 1154, line 17, after "Flood" insert "-Beutler".

The Journal for the fifty-ninth day was approved as corrected.

The Journal for the sixtieth day was approved.

**SELECT COMMITTEE REPORTS  
Enrollment and Review****Correctly Engrossed**

The following bills were correctly engrossed: LBs 82 and 351.

ER9027

Enrollment and Review Change to LB 82

The following changes, required to be reported for publication in the Journal, have been made:

1. On page 1, the matter beginning with "motor" in line 1 through line 6 and all amendments thereto have been struck and "personal property; to

amend sections 52-604, 60-6,114, 60-6,294, 60-6,297, 60-6,298, 60-2404, and 60-2410, Reissue Revised Statutes of Nebraska; to change provisions relating to liens, towing, and operation of emergency vehicles; to except emergency vehicles from size and weight restrictions and require a permit for operation of emergency vehicles as prescribed; to harmonize provisions; and to repeal the original sections." inserted.

(Signed) Michael Flood, Chairperson

### **MOTION - Approve Appointments**

Senator Schrock moved the adoption of the Natural Resources Committee report for the confirmation of the following appointment(s) found on page 1158:

Nebraska Environmental Trust Board

Paul Dunn

Gloria Erickson

Susan Seacrest

Voting in the affirmative, 31:

Aguilar	Cornett	Howard	Langemeier	Stuthman
Beutler	Cudaback	Hudkins	McDonald	Thompson
Brashear	Engel	Janssen	Pahls	Wehrbein
Burling	Erdman	Jensen	Raikes	
Byars	Fischer	Johnson	Schimek	
Combs	Flood	Kopplin	Schrock	
Connealy	Friend	Kremer	Smith	

Voting in the negative, 0.

Present and not voting, 10:

Baker	Brown	Foley	Pederson, D.	Redfield
Bourne	Chambers	Kruse	Preister	Synowiecki

Excused and not voting, 8:

Cunningham	Landis	Mines	Price
Heidemann	Louden	Pedersen, Dw.	Stuhr

The appointments were confirmed with 31 ayes, 0 nays, 10 present and not voting, and 8 excused and not voting.

### **GENERAL FILE**

**LEGISLATIVE BILL 480.** The first Synowiecki pending amendment, FA157, found on page 1173, to the Standing Committee amendment, was renewed.

Senator Synowiecki moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

Senator Synowiecki requested a roll call vote on his amendment.

Voting in the affirmative, 19:

Baker	Cunningham	Heidemann	McDonald	Stuhr
Bourne	Engel	Janssen	Mines	Stuthman
Combs	Fischer	Kopplin	Pahls	Synowiecki
Cornett	Flood	Langemeier	Smith	

Voting in the negative, 20:

Aguilar	Byars	Hudkins	Kruse	Schimek
Beutler	Chambers	Jensen	Preister	Schrock
Brown	Erdman	Johnson	Price	Thompson
Burling	Howard	Kremer	Redfield	Wehrbein

Present and not voting, 7:

Connealy	Foley	Louden	Raikes
Cudaback	Friend	Pederson, D.	

Excused and not voting, 3:

Brashear	Landis	Pedersen, Dw.
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The Synowiecki amendment lost with 19 ayes, 20 nays, 7 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Synowiecki asked unanimous consent to withdraw the balance of the original undivided amendment, AM1056, found on page 1117 and considered on page 1173. No objections. So ordered.

Senator Erdman withdrew his pending amendment, FA152, found on page 1137.

Senator Thompson renewed her pending amendment, AM1179, found on page 1174, to the Standing Committee amendment.

The Thompson amendment was adopted with 30 ayes, 1 nay, 15 present and not voting, and 3 excused and not voting.

Senator Thompson offered the following amendment to the Standing Committee amendment:

AM1190

(Amendments to Standing Committee amendments, AM0802)

- 1 1. On page 2, line 27, strike "Smoking" and insert "(a)
- 2 Except as otherwise provided in subdivision (b) of this subsection,
- 3 smoking".
- 4 2. On page 3, line 1, after the period insert
- 5 "(b) Restaurants that are a licensee which conducts a
- 6 lottery under the Nebraska County and City Lottery Act on the
- 7 licensed premises or are located within a licensed racetrack
- 8 enclosure that is not located on state property are exempt from the
- 9 provisions of subdivision (a) of this subsection until January 1,
- 10 2015.".

**SENATOR SCHIMEK PRESIDING****SENATOR CUDABACK PRESIDING**

Senator Thompson moved for a call of the house. The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

Senator Bourne requested a roll call vote on the Thompson amendment.

Voting in the affirmative, 15:

Aguilar	Chambers	Cudaback	Kruse	Schrock
Beutler	Connealy	Cunningham	Preister	Thompson
Brown	Cornett	Howard	Price	Wehrbein

Voting in the negative, 14:

Baker	Foley	Langemeier	Mines	Smith
Bourne	Friend	Louden	Pahls	Stuthman
Erdman	Jensen	McDonald	Schimek	

Present and not voting, 15:

Brashear	Combs	Hudkins	Kopplin	Redfield
Burling	Fischer	Janssen	Pederson, D.	Stuhr
Byars	Heidemann	Johnson	Raikes	Synowiecki

Excused and not voting, 5:

Engel	Flood	Kremer	Landis	Pedersen, Dw.
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The Thompson amendment lost with 15 ayes, 14 nays, 15 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

The Standing Committee amendment, AM0802, found on page 861 and considered on pages 1136 and 1169, as amended, was renewed.

Senator Thompson moved for a call of the house. The motion prevailed with 33 ayes, 0 nays, and 16 not voting.

Senator Jensen requested a roll call vote on the Standing Committee amendment.

Voting in the affirmative, 22:

Aguilar	Chambers	Jensen	Price	Thompson
Beutler	Connealy	Johnson	Raikes	Wehrbein
Brashear	Cornett	Kopplin	Redfield	
Brown	Foley	Kruse	Schimek	
Byars	Howard	Preister	Schrock	

Voting in the negative, 20:

Baker	Engel	Friend	Langemeier	Smith
Bourne	Erdman	Heidemann	McDonald	Stuhr
Combs	Fischer	Hudkins	Mines	Stuthman
Cunningham	Flood	Janssen	Pahls	Synowiecki

Present and not voting, 4:

Cudaback	Kremer	Louden	Pederson, D.
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Excused and not voting, 3:

Burling	Landis	Pedersen, Dw.
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The Standing Committee amendment, as amended, lost with 22 ayes, 20 nays, 4 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

Senator Thompson withdrew her pending amendment, FA151, found on page 1137.

Senator Thompson moved for a call of the house. The motion prevailed with 38 ayes, 0 nays, and 11 not voting.

Senator Thompson requested a roll call vote, in reverse order, on the advancement of the bill.

Voting in the affirmative, 19:

Aguilar	Chambers	Jensen	Preister	Schrock
Beutler	Cornett	Johnson	Price	Thompson
Brown	Foley	Kopplin	Redfield	Wehrbein
Byars	Howard	Kruse	Schimek	

Voting in the negative, 26:

Baker	Engel	Hudkins	Mines	Stuthman
Bourne	Erdman	Janssen	Pahls	Synowiecki
Combs	Fischer	Kremer	Pederson, D.	
Connealy	Flood	Langemeier	Raikes	
Cudaback	Friend	Louden	Smith	
Cunningham	Heidemann	McDonald	Stuhr	

Present and not voting, 1:

Brashear

Excused and not voting, 3:

Burling	Landis	Pedersen, Dw.
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Failed to advance to E & R for review with 19 ayes, 26 nays, 1 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

### AMENDMENTS - Print in Journal

Senator Erdman filed the following amendment to LB 480:  
AM1184

(Amendments to Standing Committee amendments, AM0802)

- 1 1. Insert the following new sections:
- 2 "Sec. 11. Section 71-5712, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 71-5712. Any person who violates ~~section 71-5707 the~~
- 5 Nebraska Clean Indoor Air Act shall be guilty of a Class V
- 6 misdemeanor.
- 7 Sec. 12. Section 77-2602, Reissue Revised Statutes of
- 8 Nebraska, is amended to read:
- 9 77-2602. (1) Every person engaged in distributing or
- 10 selling cigarettes at wholesale in this state shall pay to the Tax
- 11 Commissioner of this state a special privilege tax. This shall be
- 12 in addition to all other taxes. It shall be paid prior to or at
- 13 the time of the sale, gift, or delivery to the retail dealer in the
- 14 several amounts as follows: On each package of cigarettes
- 15 containing not more than twenty cigarettes, sixty-four cents per
- 16 package; and on packages containing more than twenty cigarettes,
- 17 the same tax as provided on packages containing not more than

18 twenty cigarettes for the first twenty cigarettes in each package  
19 and a tax of one-twentieth of the tax on the first twenty  
20 cigarettes on each cigarette in excess of twenty cigarettes in each  
21 package.

22 (2) Commencing July 1, 1994, and continuing until October  
23 1, 2004, the State Treasurer shall place the equivalent of  
1 twenty-one cents of such tax in the General Fund. Commencing  
2 October 1, 2004, the State Treasurer shall place the equivalent of  
3 forty-nine cents of such tax in the General Fund. The State  
4 Treasurer shall reduce the amount placed in the General Fund under  
5 this subsection by the amount prescribed in subdivision (3)(d) of  
6 this section. For purposes of this section, the equivalent of a  
7 specified number of cents of the tax shall mean that portion of the  
8 proceeds of the tax equal to the specified number divided by the  
9 tax rate per package of cigarettes containing not more than twenty  
10 cigarettes.

11 (3) The State Treasurer shall distribute the remaining  
12 proceeds of such tax in the following order:

13 (a) First, beginning July 1, 1980, the State Treasurer  
14 shall place the equivalent of one cent of such tax in the Nebraska  
15 Outdoor Recreation Development Cash Fund. For fiscal year  
16 distributions occurring after FY1998-99, the distribution under  
17 this subdivision shall not be less than the amount distributed  
18 under this subdivision for FY1997-98. Any money needed to increase  
19 the amount distributed under this subdivision to the FY1997-98  
20 amount shall reduce the distribution to the General Fund;

21 (b) Second, beginning July 1, 1993, the State Treasurer  
22 shall place the equivalent of three cents of such tax in the  
23 Department of Health and Human Services Finance and Support Cash  
24 Fund to carry out sections 81-637 to 81-640. For fiscal year  
25 distributions occurring after FY1998-99, the distribution under  
26 this subdivision shall not be less than the amount distributed  
27 under this subdivision for FY1997-98. Any money needed to increase  
1 the amount distributed under this subdivision to the FY1997-98  
2 amount shall reduce the distribution to the General Fund;

3 (c) Third, beginning July 1, 2001, and continuing until  
4 October 1, 2002, the State Treasurer shall place the equivalent of  
5 five cents of such tax in the Building Renewal Allocation Fund.  
6 Beginning October 1, 2002, and continuing until all the purposes of  
7 the Deferred Building Renewal Act have been fulfilled, the State  
8 Treasurer shall place the equivalent of seven cents of such tax in  
9 the Building Renewal Allocation Fund. The Legislature shall  
10 appropriate each fiscal year all sums inuring to the fund, plus  
11 interest earnings, for the Task Force for Building Renewal to be  
12 used to carry out its duties and to fulfill the purposes of the  
13 Deferred Building Renewal Act. Unexpended balances existing at the  
14 end of each fiscal year shall be, and are hereby, reappropriated.  
15 The distribution under this subdivision shall not be less than the  
16 amount distributed under this subdivision for FY1997-98. Any money

17 needed to increase the amount distributed under this subdivision to  
18 the FY1997-98 amount shall reduce the distribution to the General  
19 Fund;

20 (d) Fourth, beginning July 1, 1994, and continuing until  
21 July 1, 2003, the State Treasurer shall place in the Municipal  
22 Infrastructure Redevelopment Fund the sum of three million dollars  
23 each fiscal year to carry out the Municipal Infrastructure  
24 Redevelopment Fund Act. Commencing July 1, 2003, and continuing  
25 until July 1, 2005, the State Treasurer shall place in such fund  
26 the sum of five hundred twenty thousand dollars each fiscal year to  
27 carry out the act. Commencing July 1, 2005, and continuing until  
1 July 1, 2009, the State Treasurer shall place in such fund the sum  
2 of three million dollars each fiscal year to carry out the act.  
3 The Legislature shall appropriate the sum of five hundred twenty  
4 thousand dollars each year for fiscal years 2003-04 and 2004-05.  
5 The Legislature shall appropriate the sum of three million dollars  
6 each year for fiscal year 2005-06 through fiscal year 2008-09;

7 (e) Fifth, beginning July 1, 2001, the State Treasurer  
8 shall place the equivalent of two cents of such tax in the  
9 Information Technology Infrastructure Fund;

10 (f) Sixth, beginning July 1, 2001, and continuing until  
11 June 30, 2016, the State Treasurer shall place one million dollars  
12 each fiscal year in the City of the Primary Class Development Fund.  
13 If necessary, the State Treasurer shall reduce the distribution of  
14 tax proceeds to the General Fund pursuant to subsection (2) of this  
15 section by such amount required to fulfill the one million dollars  
16 to be distributed pursuant to this subdivision;

17 (g) Seventh, beginning July 1, 2001, and continuing until  
18 June 30, 2016, the State Treasurer shall place one million five  
19 hundred thousand dollars each fiscal year in the City of the  
20 Metropolitan Class Development Fund, except that the State  
21 Treasurer shall not place such amount in such fund if a city of the  
22 metropolitan class has established an ordinance described in  
23 subdivision (2) of section 71-5702. If necessary, the State  
24 Treasurer shall reduce the distribution of tax proceeds to the  
25 General Fund pursuant to subsection (2) of this section by such  
26 amount required to fulfill the one million five hundred thousand  
27 dollars to be distributed pursuant to this subdivision; and

1 (h) Eighth, beginning October 1, 2002, and continuing  
2 until October 1, 2004, the State Treasurer shall place the  
3 equivalent of twenty-eight cents of such tax in the Cash Reserve  
4 Fund.

5 (4) If, after distributing the proceeds of such tax  
6 pursuant to subsections (2) and (3) of this section, any proceeds  
7 of such tax remain, the State Treasurer shall place such remainder  
8 in the Nebraska Capital Construction Fund.

9 (5) The Legislature hereby finds and determines that the  
10 projects funded from the Municipal Infrastructure Redevelopment  
11 Fund and the Building Renewal Allocation Fund are of critical



12 importance to the State of Nebraska. It is the intent of the  
13 Legislature that the allocations and appropriations made by the  
14 Legislature to such funds or, in the case of allocations for the  
15 Municipal Infrastructure Redevelopment Fund, to the particular  
16 municipality's account not be reduced until all contracts and  
17 securities relating to the construction and financing of the  
18 projects or portions of the projects funded from such funds or  
19 accounts of such funds are completed or paid or, in the case of the  
20 Municipal Infrastructure Redevelopment Fund, the earlier of such  
21 date or July 1, 2009, and that until such time any reductions in  
22 the cigarette tax rate made by the Legislature shall be  
23 simultaneously accompanied by equivalent reductions in the amount  
24 dedicated to the General Fund from cigarette tax revenue. ~~Any~~  
25 Allocations and appropriations for the Municipal Infrastructure  
26 Redevelopment Fund to a particular municipality's account shall be  
27 reduced if the municipality has established an ordinance described  
1 in subdivision (2) of section 71-5702. Except as provided in  
2 subsection (6) of this section, any provision made by the  
3 Legislature for distribution of the proceeds of the cigarette tax  
4 for projects or programs other than those to (a) the General Fund,  
5 (b) the Nebraska Outdoor Recreation Development Cash Fund, (c) the  
6 Department of Health and Human Services Finance and Support Cash  
7 Fund, (d) the Municipal Infrastructure Redevelopment Fund, (e) the  
8 Building Renewal Allocation Fund, (f) the Information Technology  
9 Infrastructure Fund, (g) the City of the Primary Class Development  
10 Fund, (h) the City of the Metropolitan Class Development Fund, and  
11 (i) the Cash Reserve Fund shall not be made a higher priority than  
12 or an equal priority to any of the programs or projects specified  
13 in subdivisions (a) through (i) of this subsection.  
14 (6) Any reduction in the account of a particular  
15 municipality described in subsection (5) of this section shall be  
16 transferred to the Rural Development Cash Fund.  
17 Sec. 13. Section 81-3603, Revised Statutes Supplement,  
18 2004, is amended to read:  
19 81-3603. The Rural Development Commission shall:  
20 (1) Focus attention on and increase awareness of the  
21 opportunities and needs of rural Nebraskans;  
22 (2) Advocate for rural Nebraska by proposing solutions to  
23 rural challenges;  
24 (3) Strengthen community sustainability and growth in  
25 rural Nebraska through increased community-based wealth creation,  
26 expanded economic opportunity, and improved quality of life;  
27 (4) Stimulate rural development innovation and foster  
1 information transfer to, from, and within rural Nebraska;  
2 (5) Encourage and support continuity, coordination, and  
3 cooperation among national, state, multicommunity, and local rural  
4 development initiatives and service providers;  
5 (6) Ensure that rural Nebraskans are afforded the  
6 opportunity to determine rural Nebraska's development agenda;

7 (7) Serve as an advisory body to the Governor, state  
8 agencies, and the Legislature on rural development issues;  
9 (8) Establish an information clearinghouse on rural  
10 challenges and needs, development services, model initiatives,  
11 available resources, and service providers;  
12 (9) Foster community-based development initiatives  
13 through multicommunity partnerships;  
14 (10) Support strategic planning and research for and  
15 evaluation of rural development initiatives and service providers  
16 by administering the Nebraska Development Network Program;  
17 (11) Serve as Nebraska's rural development council within  
18 the meaning of the National Rural Development Partnership by  
19 providing inventories, reports, assessments, and implementation  
20 plans as appropriate; ~~and~~

21 (12) Participate in the Partnership for Rural Nebraska;  
22 and

23 (13) If sufficient funds are available as determined by  
24 the commission, establish a grant program to assist rural  
25 development initiatives and economic opportunities.

26 Sec. 14. Section 81-3606, Revised Statutes Supplement,  
27 2004, is amended to read:

1 81-3606. There is hereby created the Rural Development  
2 Cash Fund which shall be used by the Rural Development Commission  
3 for the purposes of sections 81-3601 to 81-3605. Money credited to  
4 the fund shall include any monetary gifts, grants, and donations,  
5 proceeds from contracts for services, and reimbursements of  
6 expenses. Money credited to the fund may include tobacco proceeds  
7 transferred from the Municipal Infrastructure Redevelopment Fund  
8 pursuant to subsection (6) of section 77-2602. Any grant funds  
9 under the National Rural Development Partnership received by the  
10 State of Nebraska from the United States Department of Agriculture  
11 shall be allocated to the commission. Any money in the fund  
12 available for investment shall be invested by the state investment  
13 officer pursuant to the Nebraska Capital Expansion Act and the  
14 Nebraska State Funds Investment Act.

15 Sec. 16. Since an emergency exists, this act takes  
16 effect when passed and approved according to law."  
17 2. On page 1, line 9, after the period insert "(1)"; and  
18 strike beginning with "Nothing" in line 13 through line 17 and  
19 insert the following:

20 "(2)(a) Nothing in the act shall be construed to restrict  
21 or prohibit a governing body of a county, city, or village from  
22 establishing and enforcing ordinances at least as stringent as, or  
23 more stringent than, the provisions of the Nebraska Clean Indoor  
24 Air Act.

25 (b) Notwithstanding any provision of section 77-2602 to  
26 the contrary, any county, city, or village having an ordinance more  
27 stringent than the provisions of the Nebraska Clean Indoor Air Act  
1 shall not be eligible to receive any funds distributed pursuant to

2 section 77-2602."

3 3. On page 5, line 12, strike "shall" and show as  
4 stricken and after the last stricken comma insert "may".

5 4. On page 6, line 1, strike "and" and after the last  
6 comma insert "71-5712, and 77-2602,"; and in line 2 strike "and  
7 71-5707" and insert ", 71-5707, 81-3603, and 81-3606".

8 5. Renumber the remaining section accordingly.

Senator Beutler filed the following amendment to LB 117:  
AM1181

(Amendments to Standing Committee amendments, AM0712)

1 1. On page 17, line 20, before the semicolon insert "and  
2 sign a log book. The person selling the drug product shall record  
3 the person's name, address, and date of birth, the date of  
4 purchase, and the amount of drug product purchased. The log book  
5 shall be maintained for two years after the last sale logged in the  
6 book. The log book shall be open to law enforcement agencies and  
7 may be viewed by law enforcement officers involved in drug  
8 enforcement".

Senator Beutler filed the following amendment to LB 709:  
AM1191

(Amendments to E & R amendments, AM7080)

1 1. On page 1, line 14, strike "has" and insert "may".  
2 2. On page 4, line 2, after the period insert "The  
3 council shall review the plan and issue its recommendations to the  
4 Governor and the Legislature no later than December 14, 2005."

## VISITORS

Visitors to the Chamber were 31 fourth-grade students and teachers from Washington Elementary School, Norfolk; 11 members of the Columbus Junior City Council; Alexandra Brandt from Sweden; 8 twelfth-grade students and teacher from Sterling High School; 26 fourth-grade students, teacher, and para-educator from Seymour Elementary School, Ralston; 37 students, sponsors, and teacher from Tri County High School; 6 members of Hartington Leadership Group; 40 fourth-grade students and teachers from Ft. Calhoun; Mike Brunner from Gering; Pete Kortum from Grand Island; 35 high school students and teacher from Ralston High School, Omaha; and Talia Head from Omaha.

## RECESS

At 11:54 a.m., on a motion by Senator Baker, the Legislature recessed until 1:30 p.m.

## AFTER RECESS

The Legislature reconvened at 1:30 p.m., Senator Cudaback presiding.

**ROLL CALL**

The roll was called and all members were present except Senators Burling, Landis, and Dw. Pedersen who were excused; and Senators Byars, Combs, Heidemann, Price, and Thompson who were excused until they arrive.

**GENERAL FILE**

**LEGISLATIVE BILL 673.** The Standing Committee amendment, AM0867, printed separately and referred to on page 931 and considered on page 1175, was renewed.

Senator Chambers renewed his pending amendment, FA159, found on page 1177, to the Standing Committee amendment.

Senator Chambers moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 2:

Chambers	Howard
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Voting in the negative, 11:

Engel	Friend	Louden	Smith
Erdman	Heidemann	Raikes	Wehrbein
Flood	Janssen	Schimek	

Present and not voting, 28:

Aguilar	Connealy	Jensen	Pahls	Stuhr
Baker	Cornett	Johnson	Pederson, D.	Stuthman
Beutler	Cudaback	Kopplin	Preister	Synowiecki
Bourne	Cunningham	Kremer	Price	Thompson
Brown	Fischer	Kruse	Redfield	
Combs	Hudkins	McDonald	Schrock	

Excused and not voting, 8:

Brashear	Byars	Landis	Mines
Burling	Foley	Langemeier	Pedersen, Dw.

The Chambers amendment lost with 2 ayes, 11 nays, 28 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Senator Chambers renewed his pending amendment, FA160, found on page 1177, to the Standing Committee amendment.

Pending.

## **STANDING COMMITTEE REPORTS**

### **Judiciary**

**LEGISLATIVE BILL 507.** Placed on General File.

**LEGISLATIVE BILL 116.** Placed on General File as amended.  
(Standing Committee amendment, AM1130, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 123.** Placed on General File as amended.  
Standing Committee amendment to LB 123:  
AM1200

- 1 1. On page 9, lines 20 through 28; and page 10, lines 1
- 2 and 2, strike the new matter.
- 3 2. On page 10, line 16, reinstate the stricken matter
- 4 and after "employment" insert "or volunteer"; and in line 17 strike
- 5 the new matter.
- 6 3. On page 12, line 16, after the second comma insert
- 7 "health care facilities providing services to children or
- 8 vulnerable adults,".

**LEGISLATIVE BILL 322.** Placed on General File as amended.  
(Standing Committee amendment, AM1131, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 444.** Placed on General File as amended.  
Standing Committee amendment to LB 444:  
AM0956

- 1 1. Strike the original sections and insert the following
- 2 new sections:
- 3 "Section 1. Section 43-3342.03, Reissue Revised Statutes
- 4 of Nebraska, is amended to read:
- 5 43-3342.03. (1) All support orders shall direct payment
- 6 of support as provided in section 42-369. Any support order issued
- 7 prior to the date that the State Disbursement Unit becomes
- 8 operative for which the payment is to be made to the clerk of the
- 9 district court shall be deemed to require payment to the State
- 10 Disbursement Unit after a notice to the obligor is issued.
- 11 (2) The unit may collect a fee equal to the actual cost
- 12 of processing any ~~payment made with insufficient funds. After~~
- 13 payments for returned check charges or charges for electronic
- 14 payments not accepted. After a payor has originated two payments
- 15 ~~made with insufficient funds~~ resulting in returned check charges or

16 charges for electronic payments not accepted within a period of one  
17 year, the unit ~~shall~~ may issue a notice to the originator that, for  
18 the following year, any payment shall be required to be paid by  
19 ~~cash, guaranteed funds, or wire funds transfer money order,~~  
20 cashier's check, or certified check. After a payor has originated  
21 three payments ~~made with insufficient funds~~ resulting in returned  
22 check charges or electronic payments not accepted, the unit ~~shall~~  
23 may issue a notice to the originator that all future payments shall  
24 be paid by ~~cash, guaranteed funds, or wire funds transfer money~~  
1 order, cashier's check, or certified check, except that pursuant to  
2 rule and regulation and at least two years after such issuance of  
3 notice, the unit may waive for good cause shown such requirements  
4 for methods of payment.  
5 Sec. 2. Original section 43-3342.03, Reissue Revised  
6 Statutes of Nebraska, is repealed."

**LEGISLATIVE BILL 535.** Placed on General File as amended.  
Standing Committee amendment to LB 535:  
AM0983

1 1. Strike the original sections and insert the following  
2 new sections:  
3 "Section 1. Section 28-323, Revised Statutes Supplement,  
4 2004, is amended to read:  
5 28-323. (1) A person commits the offense of domestic  
6 assault in the third degree if he or she:  
7 (a) Intentionally and knowingly causes bodily injury to  
8 his or her intimate partner; or  
9 (b) Places, by physical or verbal menace, his or her  
10 intimate partner in fear of imminent bodily injury.  
11 (2) A person commits the offense of domestic assault in  
12 the second degree if he or she intentionally and knowingly causes  
13 bodily injury to his or her intimate partner with a dangerous  
14 instrument.  
15 (3) A person commits the offense of domestic assault in  
16 the first degree if he or she intentionally and knowingly causes  
17 serious bodily injury to his or her intimate partner.  
18 (4) Violation of subsection (1) of this section is a  
19 Class I misdemeanor, except that for any second or subsequent  
20 violation of such subsection within twelve years after the date of  
21 the current conviction, any person so offending against the same  
22 intimate partner is guilty of a Class IV felony.  
23 (5) Violation of subsection (2) of this section is a  
24 Class IIIA felony, except that for any second or subsequent  
1 violation of such subsection within twelve years after the date of  
2 the current conviction, any person so offending against the same  
3 intimate partner is guilty of a Class III felony.  
4 (6) Violation of subsection (3) of this section is a  
5 Class III felony, except that for any second or subsequent  
6 violation under such subsection within twelve years after the date

7 of the current conviction, any person so offending against the same intimate partner is guilty of a Class II felony.

9 (7) For purposes of this section, (a) intimate partner means a spouse; a former spouse; persons who have a child in common whether or not they have been married or lived together at any time; and persons who are or were involved in a dating relationship, and (b) - ~~For purposes of this subsection, dating~~ relationship means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement, but does not include a casual relationship or an ordinary association between persons in a business or social context.

19 (8) When a court dismisses a charge filed under this section or a prosecutor moves to dismiss a charge filed under this section, the reasons for the dismissal shall be recorded in the court record.

23 Sec. 2. Original section 28-323, Revised Statutes Supplement, 2004, is repealed."

**LEGISLATIVE BILL 572.** Placed on General File as amended.

Standing Committee amendment to LB 572:

AM1124

- 1 1. On page 2, line 28, after the comma insert "the Public Counsel or his or her designee,".
- 3 2. On page 3, line 11, strike "June 15" and insert "August 1"; and in line 19 strike "March 1" and insert "December 15".
- 6 3. On page 4, line 2, strike "March 1" and insert "December 15".

**LEGISLATIVE BILL 633.** Placed on General File as amended.

Standing Committee amendment to LB 633:

AM1199

- 1 1. Strike original sections 1 and 13.
- 2 2. On page 4, lines 22 and 23, strike "6, 10, and 13" and insert "5 and 9".
- 4 3. On page 6, lines 23 and 24 and 27 and 28; and page 7, lines 3 and 4, strike "or any third person acting under the respondent's direction".
- 7 4. On page 7, lines 5 through 7, strike the new matter; and strike beginning with "minimum" in line 11 through "distance" in line 12 and insert "specified distance as"; and in line 23 strike "includes a requirement that" and insert "prohibits" and strike "refrain".
- 12 5. On page 8, line 1, after "with" insert "aiding and abetting"; in line 2 after "order" insert "unless the court finds that the petitioner invited the respondent to the residence or other specified place that the respondent was prohibited from entering with the intent to have the respondent arrested for

17 violation of a protection order"; in lines 14 and 15 strike the new  
18 matter; and strike lines 27 and 28.

19 6. Strike pages 9 and 10.

20 7. On page 11, strike lines 1 through 25; and in line 26  
21 strike "(10)" and insert "(5)".

22 8. On page 12, line 1, strike "(11)" and insert "(6)";  
23 and in line 4 strike "(12)" and insert "(7)".

24 9. On page 16, line 13, strike "(1)"; and strike lines  
1 23 through 28.

2 10. On page 17, strike line 1.

3 11. Renumber the remaining sections and correct the  
4 repealer accordingly.

**LEGISLATIVE BILL 677.** Placed on General File as amended.

(Standing Committee amendment, AM1115, is printed separately and available in the Bill Room, Room 1104.)

**LEGISLATIVE BILL 713.** Placed on General File as amended.

(Standing Committee amendment, AM1108, is printed separately and available in the Bill Room, Room 1104.)

(Signed) Patrick J. Bourne, Chairperson

### GENERAL FILE

**LEGISLATIVE BILL 673.** The Chambers pending amendment, FA160, found on page 1177 and considered in this day's Journal, to the Standing Committee amendment, was renewed.

Senator Chambers moved for a call of the house. The motion prevailed with 14 ayes, 0 nays, and 35 not voting.

The Chambers amendment lost with 2 ayes, 21 nays, 16 present and not voting, and 10 excused and not voting.

Senator Chambers renewed his pending amendment, FA162, found on page 1177, to the Standing Committee amendment.

### SENATOR STUHR PRESIDING

### SENATOR CUDABACK PRESIDING

Senator Chambers moved for a call of the house. The motion prevailed with 16 ayes, 0 nays, and 33 not voting.

Senator Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 3:

Chambers      Howard      Schimek



Voting in the negative, 24:

Baker	Fischer	Kremer	Pahls	Stuhr
Connealy	Flood	Kruse	Pederson, D.	Stuthman
Cunningham	Heidemann	Louden	Raikes	Synowiecki
Engel	Hudkins	McDonald	Schrock	Wehrbein
Erdman	Kopplin	Mines	Smith	

Present and not voting, 13:

Beutler	Brown	Cudaback	Preister	Thompson
Bourne	Combs	Jensen	Price	
Brashear	Cornett	Johnson	Redfield	

Excused and not voting, 9:

Aguilar	Byars	Friend	Landis	Pedersen, Dw.
Burling	Foley	Janssen	Langemeier	

The Chambers amendment lost with 3 ayes, 24 nays, 13 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

Senator Chambers renewed his pending amendment, FA163, found on page 1177, to the Standing Committee amendment.

Pending.

### **AMENDMENTS - Print in Journal**

Senator Beutler filed the following amendment to LB 40:  
AM1204

- 1 1. On page 3, strike beginning with the first comma in
- 2 line 13 through line 18, show as stricken, and insert an
- 3 underscored period.

Senator Chambers filed the following amendment to LB 673:  
FA164

Amend AM0867

On page 1, strike lines 7-9.

Senator Chambers filed the following amendment to LB 673:  
FA165

Amend AM0867

On page 1, strike lines 10-11.

**SELECT COMMITTEE REPORTS**  
**Enrollment and Review****Correctly Reengrossed**

The following bill was correctly reengrossed: LB 503.

**Correctly Engrossed**

The following bills were correctly engrossed: LBs 161, 361, 382, 401, 551, and 739.

ER9028

**Enrollment and Review Change to LB 161**

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Dw. Pedersen amendment, AM1165, section 8 has been renumbered as section 12.

2. In the Price et al. amendment, AM1162, section 1 has been renumbered as section 2.

3. In the Jensen amendment, AM1044:

a. On page 1, line 8, the comma has been struck and shown as stricken; and

b. On page 4, the new matter in lines 2 and 3 has been moved to line 8, after the comma.

4. In the E & R amendments, AM7072, on page 11, the matter beginning with "sections" in line 21 through "19-2405" in line 22 and all amendments thereto have been struck and "sections 14-405, 15-201, 16-669, 16-670, 17-522, 19-905, 19-2404, 19-2405, 23-165, and 74-1307" inserted.

5. On page 1, the matter beginning with "municipalities" in line 1 through line 4 and all amendments thereto have been struck and "political subdivisions; to amend sections 14-405, 15-201, 16-669, 16-670, 17-522, 19-905, 19-2404, 19-2405, 23-165, and 74-1307, Reissue Revised Statutes of Nebraska, and sections 16-611 and 17-558, Revised Statutes Supplement, 2004; to change provisions relating to zoning, the vacation of streets and alleys, sewer and water improvements, and sidewalk construction and maintenance; to provide powers relating to trees; to provide for special assessment districts; to change provisions relating to bond issuance by railroad transportation safety districts; to harmonize provisions; and to repeal the original sections." inserted.

ER9031

**Enrollment and Review Change to LB 361**

The following changes, required to be reported for publication in the Journal, have been made:

1. In the E & R amendments, AM7070, on page 40, line 17, "with" has been struck and "within" inserted.

ER9025

Enrollment and Review Change to LB 382

The following changes, required to be reported for publication in the Journal, have been made:

1. The Stuhr amendment, AM0816, as amended by the Stuhr amendment, FA154, has been incorporated into the Standing Committee amendments, AM0702.

2. In the Stuhr amendment, AM0816, on page 6, the matter beginning with the semicolon in line 16 through the last quotation mark in line 17 has been struck.

3. In the Byars amendment, AM0951, on page 1, line 19, "13 and 15" has been struck and "15 and 17" inserted.

4. In the Standing Committee amendments, AM0702:

a. On page 58, line 14, "signature" has been inserted after "electronic"; and

b. On page 66, line 24, "effective date of this act" has been struck and "operative date of this section" inserted.

5. On page 1, the matter beginning with "drugs" in line 1 through line 10 and all amendments thereto have been struck and "public health and welfare; to amend sections 71-168, 71-1,146.01, 71-1,147.35, 71-374, 71-375, 71-5402, 71-5403, and 71-5404, Reissue Revised Statutes of Nebraska, sections 28-401, 28-405, 28-414, 28-1437, and 71-1,142, Revised Statutes Supplement, 2004, and section 2, Legislative Bill 306, Ninety-ninth Legislature, First Session, 2005; to provide for electronic transmission of prescriptions; to define, redefine, and eliminate terms; to change provisions relating to controlled substances, dispensing, compounding, and destroying certain drugs, and drug product selection; to provide an exception to mandatory reporting requirements for pharmacist interns; to change provisions relating to the Board of Cosmetology; to provide for relabeling and redispensing of certain prescription drugs and devices; to change provisions relating to criminal background checks required of certain professionals; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency." inserted.

ER9026

Enrollment and Review Change to LB 401

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Schimek amendment, FA155, an underscored comma has been inserted after "falsification".

2. In the Beutler amendment, AM1145, section 5 has been renumbered as section 6.

3. In the E & R amendments, AM7073, on page 1, line 11, "31-735," has been inserted after "sections"; and in line 12 "to change provisions relating to the election of the board of trustees of sanitary and improvement districts;" has been inserted after the semicolon.

ER9029

Enrollment and Review Change to LB 551

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Jensen amendment, AM1113, on page 1, line 9, the second "of" has been struck and "or" inserted.

2. In the Standing Committee amendments, AM0695, on page 10, the matter beginning with "71-810" in line 1 through the second comma in line 2 and all amendments thereto have been struck and "71-1,356, 71-1,358, 71-810, 71-813, 71-815 to 71-818, and 71-922," inserted.

3. On page 1, the matter beginning with "the" in line 1 through line 5 and all amendments thereto have been struck and "public health and welfare; to amend sections 71-1,356, 71-1,358, 71-810, 71-813, 71-815 to 71-818, and 71-922, Revised Statutes Supplement, 2004; to change training requirements relating to alcohol and drug counselor training supervisors; to establish a data and information system; to provide duties for the Division of Behavioral Health Services; to change provisions relating to membership on a council, on advisory committees, and on a commission; to change provisions relating to the Compulsive Gamblers Assistance Fund; to change provisions relating to mental health board proceedings; to provide an operative date; to repeal the original sections; and to declare an emergency." inserted.

ER9024

Enrollment and Review Change to LB 739

The following changes, required to be reported for publication in the Journal, have been made:

1. In the Beutler amendment, AM1159, on page 1, line 9, an underscored comma has been inserted after "amount".

2. The Cunningham amendment, AM1148, has been incorporated into the E & R amendments, AM7071.

3. In the E & R amendments, AM7071, on page 50, line 21, "0.30 percent and below" has been struck and "Below 0.30 percent" inserted.

(Signed) Michael Flood, Chairperson

**VISITORS**

Visitors to the Chamber were 12 Japanese students and teacher from College of St. Mary's, Omaha; 37 fourth-grade students and teachers from Stoddard

Elementary School, Beatrice; and Jim Lawson from Gering.

The Doctor of the Day was Dr. Gilbert Head from Omaha.

**MOTION - Adjournment**

Senator Stuhr moved to adjourn until 9:00 a.m., Thursday, April 14, 2005.

Senator Chambers requested a roll call vote on the motion to adjourn.

The Stuhr motion to adjourn prevailed with 24 ayes, 6 nays, 10 present and not voting, and 9 excused and not voting, and at 4:00 p.m., the Legislature adjourned until 9:00 a.m., Thursday, April 14, 2005.

Patrick J. O'Donnell  
Clerk of the Legislature

